

REMARKS/ARGUMENTS

Claims 1-8 were pending at the time of the mailing of the outstanding Office Action. By this amendment, no claims have been cancelled, one claim has been added and claims 3 and 4 have been amended.

In the Office Action of October 12, 2006, the Examiner objected to claims 3-4 as containing certain informalities. Claims 3 and 4 have been amended accordingly.

Under 35 U.S.C. § 103(a), the Examiner rejected claims 1-2 as being unpatentable over US Pat. App. Pub. No. 2004/0095708 to Takeda et al (hereinafter "Takeda") in view of JP11-067600 (hereinafter "the '600 publication"). The Examiner also rejected claim 3 under 35 U.S.C. § 103(a), as being unpatentable over Takeda and the '600 publication in further view of JP2001102265 (hereinafter "the '265 publication"). Claim 4 stands rejected under 35 U.S.C. § 103(a), as being unpatentable over Takeda and the '600 publication in further view of RE 31,743 to Arora et al (hereinafter "Arora"). Claims 5 and 6 stand rejected under 35 U.S.C. § 103(a), as being unpatentable over Takeda and the '600 publication in further view of US Pat. No. 6,262,879 to Nitta et al. (hereinafter "Nitta"). The Examiner has rejected claim 7 has been rejected under 35 U.S.C. § 103(a), as being unpatentable over Takeda, the '600 publication, and the '265 publication in further view of Nitta. Claim 8 stands rejected under 35 U.S.C. § 103(a), as being unpatentable over Takeda, the '265 publication and Arora in further view of Nitta.

Claims 1 -8 stand rejected on the ground of non-statutory obviousness type double patenting. Claims 1 and 2 stand rejected as being unpatentable over claim 29 of US Pat. No. 7,072,173 (hereinafter "the '173 patent") in view of the '600 publication. Claim 3 stands rejected as unpatentable over claim 29 of the '173 patent in view of the '600 publication and the '265 publication. Claim 4 stands rejected as unpatentable over claim 29 of the '173 patent in view of the '600 publication and Arora. Claims 5-6 stand rejected as unpatentable over claim 29 of the '173 patent in view of the '600 publication and Nitta. Claim 7 stands rejected as unpatentable over claim 29 of the '173 patent in view of the '600 publication, the '265 publication and Nitta. Claim 8 stands rejected as

unpatentable over claim 29 of the '173 patent in view of the '600 publication, Arora and Nitta.

To establish a prima facie case of obviousness, three requirements must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine the reference teachings. There must also be a reasonable expectation of success and the prior art reference or references must teach or suggest all of the claim limitations. (MPEP § 2143.) The Applicants maintain that one of ordinary skill in the art would not have found any suggestion or motivation to combine Takeda and the '600 publication, either in the references or in the knowledge generally available.

Japanese patent publication JP11-067600 provides an electrolyte solution containing quarternized amidinium, rather than one containing aluminum tetrafluorate, as provided by Takeda. This is not a trivial distinction. The use of quarternized amidinium in the electrolyte solution dictates that a capacitor utilizing such an electrolyte may be used at a temperature of 105°C or less, as demonstrated by the testing parameters of the '600 publication. The testing does not take place at 125°C, as in Takeda, because the electrolyte will not provide desired characteristics. Therefore, because one of ordinary skill in the art would not recognize that the components of capacitors of Takeda and the '600 publication are interchangeable, he or she would not have found any suggestion or motivation to combine the teachings of these references to arrive at the present invention. For this reason, the Applicants maintain that claim 1 patentably distinguishes over Takeda and the '600 patent. Likewise, claims 2-9, which directly or indirectly depend from and include all the limitations of claims 1, also patentably distinguish over Takeda and the '600 patent. Withdrawal of the rejections under 35 U.S.C. § 103(a) is respectfully requested.

The Examiner has rejected claim 1 on the ground of non-statutory obviousness type double patenting and maintains that one of ordinary skill in the art would have found it obvious to use the electrolyte of the '173 patent in the capacitor of the '600 publication. The Examiner maintains that one of ordinary skill in the art would have found it obvious to use the electrolyte of the '173 patent in the capacitor of the '600 publication. Because

U.S. Pat. No. 7,072,173 is the issued patent corresponding to US Pat. App. Pub. No. 2004/0095708 (Takeda), the reasons provided above regarding the rejection under 35 U.S.C. § 103(a), apply to this rejection as well. It would not have been obvious to combine the teachings of the '173 patent with the '600 publication because one of ordinary skill in the art would not recognize that the components of capacitors of Takeda and the '600 publication are interchangeable. Therefore, the Applicants request withdrawal of the rejection of claim 1 on the ground of non-statutory obviousness type double patenting. Likewise, they also request the withdrawal of the rejection of claims 2-9 on this basis, as these claims depend from and include all the limitations of claim 1.

The outstanding Office Action was mailed on 12 October 2006. The Examiner set a shortened statutory period for reply of 3 months from the mailing date. Therefore a petition is hereby made for a one month extension of time for response to the Office Action. The Commissioner is authorized to charge any fee or to credit any overpayment associated with the filing of this paper to Deposit Account 15-0450.

Respectfully submitted,

/John J. Cunniff/

John J. Cunniff
Reg. No 42,451
Hahn Loeser + Parks LLP
One GOJO Plaza
Suite 300
Akron, OH 44311
Attorney for Applicants